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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/739,691	12/20/2000	Koichi Shibata	500.39409X00	3285

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ALEXANDRIA, VA 22314

EXAMINER

DALENCOURT, YVES

ART UNIT	PAPER NUMBER
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2157

DATE MAILED: 03/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/739,691

**Applicant(s)**

SHIBATA ET AL.

**Examiner**

Yves Dalencourt

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 24 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>10/29/2004</u> . | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

This office action is responsive to amendment filed on 10/29/2004.

#### ***Response to Amendment***

The examiner has acknowledged the amended specification, the amended claims 1, 2, 5, 7, 8, and the cancellation claims 9 and 10.

#### ***Response to Arguments***

Applicant's arguments, see pages 7 - 9, filed on 10/29/2004, with respect to the rejection(s) of claim(s) 1 - 10 under 35 U.S.C. 103(a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Karl-Heinz Lutterschmidt (US 6,356,947).

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein

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were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1 – 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Karl-Heinz Lutterschmidt (US 6,356,947; hereinafter Lutterschmidt).

Regarding claims 1 - 2, 5 - 8, Lutterschmidt teaches a video server for distributing a digitized video content (fig. 2), comprising means for determining whether or not a video content requested from a terminal is stored in said video server (col. 5, lines 45 - 53; Lutterschmidt discloses by means of the status data stored in the storage unit SDC it determines in which of the data server nodes SS1 to SS4 a data set with the specific content is stored); means for transmitting a transmission request to another video server for transmitting said video content in accordance with the Internet Protocol (IP) when the video content requested by the terminal is not stored in said video server (col. 6, lines 11 - 67; Lutterschmidt discloses that the control unit SH manages the distribution of the content via the data server nodes SS1 TO SS2. If it does not find any data server nodes that meet the criteria of the first or the second group defined above, the control unit SH selects one or more data server nodes); and means for receiving the video content transmitted from the other video server in accordance with the Internet Protocol (IP), and transmitting the video content to said terminal in accordance with Internet Protocol (IP) multicast (col. 7, lines 1 - 38; see also claim 9).

Lutterschmidt teaches substantially all the limitations including the use of an Internet Protocol (IP) network (see col. 3, line 17 - 20), but fails to explicitly teach that the transmission/reception of the video content is in accordance with HTTP protocol.

However, " Official Notice " is taken that the concept and advantages of using an HTTP protocol for transmitting/receiving video content is old and well known in the art (see attached reference US Patent Number 6,760,749 as evidenced).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Lutterschmidt's device by using an HTTP protocol for transmitting/receiving video content since such protocol is a standard mechanism by which information is transported over TCP/IP compatible networks, such as the Internet, Intranets, and Extranets.

Regarding claim 3, Lutterschmidt teaches a video server for distributing a digitized video content, which further comprises means for storing and managing the video content received from the other video server (col. 3, lines 39 - 58; col. 5, lines 48 - 56; Lutterschmidt discloses that stored data sets with different content are distributed via data server nodes SS1 TO SS4).

#### ***Allowable Subject Matter***

Claim 4 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: As specifically claimed, the art of record fail to teach a transmitting means that includes a plurality of buffers, buffer selecting means, and a reference time generator; said transmitting means detects a random access point in image information, and stores the image information up to the next random access point in one of said plurality of buffers; and said buffer selecting means selects, from among said plurality of buffers, image information which has not been transmitted and has a time stamp equal to or smaller than a reference time generated by said reference time generator, and indicates the selected image information to said transmitting means.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Dunlap et al (US Patent Number 6,760,749) discloses an interactive conference content distribution device and methods of use thereof.

### **Contact Information**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yves Dalencourt whose telephone number is (571) 272-3998. The examiner can normally be reached on M-TH 7:30AM - 6: 00PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Yves Dalencourt



March 4, 2005